

Introduced by Senator Battin

February 24, 2006

An act to amend Section 399.12 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1728, as introduced, Battin. Energy: renewable energy resources.

The existing Public Utilities Act requires the Public Utilities Commission to review and adopt a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program.

This bill would define the term “procure” for purposes of the renewables portfolio standard program and would make other nonsubstantive technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 399.12 of the Public Utilities Code is
- 2 amended to read:
- 3 399.12. For purposes of this article, the following terms have
- 4 the following meanings:
- 5 (a) “Eligible renewable energy resource” means an electric
- 6 generating facility that is one of the following:
- 7 (1) The facility meets the definition of “in-state renewable
- 8 electricity generation facility” in Section 25741 of the Public
- 9 Resources Code.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources except for ~~output~~ *electricity* certified as incremental geothermal production by the Energy Commission, provided that the incremental ~~output~~ *geothermal production of electricity* was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal *production of electricity* that recognizes the declining *geothermal* output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The ~~output~~ *output of electricity generated by a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.*

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable *energy* resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. ~~Output from such facilities~~ *Electricity generated by facilities meeting these requirements* shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(c) "*Procure*" means that a retail seller receives either delivered electricity, or the contractual right to receive future deliveries of electricity, generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase contract. Nothing in this article is intended to imply that the purchase of electricity from third parties in a

1 *wholesale transaction is the preferred method of fulfilling a retail*
2 *seller's obligation to comply with this article.*

3 ~~(e)–~~

4 (d) “Retail seller” means an entity engaged in the retail sale of
5 electricity to end-use customers, including any of the following:

6 (1) An electrical corporation, as defined in Section 218.

7 (2) A community choice aggregator. The commission shall
8 institute a rulemaking to determine the manner in which a
9 community choice aggregator will participate in the renewables
10 portfolio standard subject to the same terms and conditions
11 applicable to an electrical corporation.

12 (3) An electric service provider, as defined in Section 218.3
13 subject to the following conditions:

14 (A) An electric service provider shall be considered a retail
15 seller under this article for sales to any customer acquiring
16 service after January 1, 2003.

17 (B) An electric service provider shall be considered a retail
18 seller under this article for sales to all its customers beginning on
19 the earlier of January 1, 2006, or the date on which a contract
20 between an electric service provider and a retail customer
21 expires. Nothing in this subdivision may require an electric
22 service provider to disclose the terms of the contract to the
23 commission.

24 (C) The commission shall institute a rulemaking to determine
25 the manner in which electric service providers will participate in
26 the renewables portfolio standard. The electric service provider
27 shall be subject to the same terms and conditions applicable to an
28 electrical corporation pursuant to this article. Nothing in this
29 paragraph shall impair a contract entered into between an electric
30 service provider and a retail customer prior to the suspension of
31 direct access by the commission pursuant to Section 80110 of the
32 Water Code.

33 (4) “Retail seller” does not include any of the following:

34 (A) A corporation or person employing cogeneration
35 technology or producing power consistent with subdivision (b) of
36 Section 218.

37 (B) The Department of Water Resources acting in its capacity
38 pursuant to Division 27 (commencing with Section 80000) of the
39 Water Code.

1 (C) A local publicly owned electrical utility as defined in
2 subdivision (d) of Section 9604.

3 ~~(d)~~

4 (e) “Renewables portfolio standard” means the specified
5 percentage of electricity generated by eligible renewable energy
6 resources that a retail seller is required to procure pursuant to
7 ~~Sections 399.13 and 399.15~~ *this article*.